

RECORDATION NO. 9620... Filed & Recorded

AUG 3 1978 - 6 25 AM

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INTERSTATE COMMERCE COMMISSION

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GEOFFREY S. TOBIAS
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MICHAEL H. DAVIS
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MICHAEL L. QUINN
NANCY GREGOR FRAME
ROBERT B. KERSHAW
PAMELA J. WHITE

*ADMITTED IN DISTRICT OF
COLUMBIA ONLY
*ADMITTED IN MARYLAND AND
DISTRICT OF COLUMBIA

COUNSEL
FRANK B. OBER
ROBERT W. WILLIAMS
J. RIEMAN MCINTOSH

WILLIAM A. GRIMES (1904-1977)
J. NICHOLAS SHRIVER, JR. (1913-1977)

J. PAUL BRIGHT, JR.
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THOMAS D. WASHBURN
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MANFRED W. LECKSZAS
RICHARD E. HULL
THOMAS B. EASTMAN
GEORGE T. TYLER
WILLIAM L. BALFOUR
WILLIAM C. TRIMBLE
WILLIAM A. SNYDER, JR.
RICHARD R. JACKSON, JR.
FRANK H. WELLER, JR.
DONALD C. GREENMAN
JOHN T. WARD
KIERON F. QUINN
JERALD J. OPPEL
JOHN H. WEST, III
ROBERT V. BARTON, JR.
ALAN J. MOGOL

RECORDATION NO. 9620-A Filed & Recorded

AUG 3 1978 - 6 25 AM

INTERSTATE COMMERCE COMMISSION

August 2, 1978

RECORDATION NO. 9620-B Filed & Recorded

AUG 3 1978 - 6 25 AM

INTERSTATE COMMERCE COMMISSION

Secretary of the Interstate
Commerce Commission
Twelfth and Constitution, N.W.
Washington, D. C. 20423

Attention: Mildred Lee
Room 1227

Dear Sir:

Enclosed herewith for filing in your office,
pursuant to Section 20c of the Interstate Commerce Act,
are five (5) executed counterparts of each of the
following:

1. Purchase Order Assignment dated as of
July 18, 1978, by Consolidated Rail Corporation,
Assignor, to The Fidelity Bank, as Trustee, Assignee;
and Consent and Agreement dated as of July 18, 1978, by
Portec, Inc.; providing for the assignment of certain
rights to purchase two hundred twenty-seven (227) tri-
level enclosed auto racks for use in connection with
Interstate Commerce;

2. Equipment Trust Agreement dated as of
July 18, 1978, between Heleasco Two, Inc., as Trustor,
and The Fidelity Bank, as Trustee, providing for the
purchase and lease of two hundred twenty-seven (227)
tri-level enclosed auto racks for use in connection with
Interstate Commerce; and

3. Lease of Railroad Equipment dated as of
July 18, 1978, between The Fidelity Bank, as Trustee,
Lessor, and Consolidated Rail Corporation, Lessee, pro-
viding for the lease of two hundred twenty-seven (227)

8-2154030

No. AUG 3 1978
Date.....
Fee \$/52

ICC Washington, D. C.

RECEIVED

Counterparts - Joseph H. Thompson

RECEIVED
AUG 3 1978
FEE OPERATION BR.

Secretary of the Interstate
Commerce Commission
August 2, 1978
Page 2

tri-level enclosed auto racks for use in connection
with Interstate Commerce.

Also enclosed is a check in the amount of \$150.00
for the recordation fees.

The names and addresses of the parties to the
foregoing documents are as follows:

Trustee and The Fidelity Bank
Lessor: Broad and Walnut Streets
 Philadelphia, Pennsylvania 19109

Attention: Corporate Trust
 Department

Trustor: Heleasco Two, Inc.
 1200 Philadelphia Pike
 Claymont, Delaware 19073

Attention: President

Lessee: Consolidated Rail Corporation
 1310 Six Penn Center Plaza
 Philadelphia, Pennsylvania 19104

Attention: Vice President
 and Treasurer

Builder: Portec, Inc.
 300 Windsor Drive
 Oak Brook, Illinois 60521

The equipment covered by the Agreements consists
of two hundred twenty-seven (227) tri-level enclosed auto
racks, bearing Consolidated Rail Corporation's Identifying
Numbers CR4501 through 4727 inclusive. Such equipment also
bears the following legend:

"Auto Rack Owned By A Bank Or Trust
Company Under A Security Agreement Filed
Under Section 20c Of The Interstate Commerce
Act And Article 9 Of The Pennsylvania

Secretary of the Interstate
Commerce Commission
August 2, 1978
Page 3

Uniform Commercial Code and Leased Under
A Lease Deposited Under Section 86 Of The
Railway Act Of Canada."

on both sides of each auto rack.

Kindly return to the bearer three (3) counter-
parts of each of the Agreements.

Sincerely yours,


Alan J. Mogol

AJM/bhl

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

**Alan J. Mogol
Ober, Grimes & Shriver
1600 Maryland National Bank Building
Baltimore, Maryland 21202**

Dear Mr. Mogol:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on August 3, 1978 at 9:25am , and assigned recordation number(s) 9620, 9620-A, and 9620-B

Sincerely yours,

H.G. Homme, Jr.,
Acting Secretary

Enclosure(s)

SE-30-T
(2/78)

RECORDATION NO. 3620 Filed & Recorded
AUG 3 1978 9 55 AM
INTERSTATE COMMERCE COMMISSION

PURCHASE ORDER ASSIGNMENT

Dated as of July 18, 1978

By

CONSOLIDATED RAIL CORPORATION

To

**THE FIDELITY BANK,
As Trustee**

and

CONSENT AND AGREEMENT

Dated as of July 18, 1978

By

PORTEC, INC.

Filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act on August _____, 1978, at _____ A.M.,
Recordation No. _____.

THIS PURCHASE ORDER ASSIGNMENT, dated as of July 18, 1978, between CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (the "Assignor"), and THE FIDELITY BANK, as trustee (the "Assignee") under that certain Equipment Trust Agreement dated as of the date hereof (the "Trust Agreement"), between the Trustor as defined therein and the Assignee.

WITNESSETH:

WHEREAS, the Assignor has entered into a Purchase Agreement dated as of February 28, 1978 with Portec, Inc. (the "Builder"), providing for the manufacture by the Builder and sale to the Assignor of 227 Tri-level Enclosed Auto Racks (the "Equipment" or an "Item of Equipment") (said Purchase Order as so accepted and as amended, modified or supplemented to the date hereof and as the same may, as hereinafter provided, be amended, modified or supplemented, being herein collectively called the "Purchase Order"); and

WHEREAS, the Assignee wishes to acquire the Equipment and the Assignor is willing to assign to the Assignee, on the terms and conditions hereinafter set forth, the Assignor's rights and interests under the Purchase Order and the Assignee is willing to accept such assignment, as hereinafter set forth;

NOW THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound hereby, the parties hereto agree as follows:

1. The Assignor has sold, assigned, transferred and set over and does hereby sell, assign, transfer and set over unto the Assignee all the Assignor's right, title and interest in and to the Purchase Order, as and to the extent that the same relates to any Item of Equipment and the purchase and operation thereof, including without limitation in such assignment, (a) the right upon valid tender by the Builder to purchase each Item of Equipment pursuant to the Purchase Order, and the right to take title to such Item of Equipment and to be named

the purchaser in the bill of sale to be delivered by the Builder for such Item of Equipment, (b) all claims for damages in respect of each Item of Equipment, arising as a result of any default by the Builder under the Purchase Order, including, without limitation, all warranty and indemnity provisions contained in the Purchase Order, and all claims arising thereunder, in respect to each Item of Equipment, and (c) any and all rights of the Assignor to compel performance of the terms of the Purchase Order; subject, however, to the rights of the Assignor to pursue such claims in its own name as provided in that certain Lease of Railroad Equipment dated as of the date hereof between the Assignee, as lessor, and the Assignor, as lessee (the "Lease").

2. This Assignment shall become effective with respect to each Item of Equipment upon, but not prior to, the acceptance by the Assignee of the delivery of such Item of Equipment pursuant to the Purchase Order.

3. The Assignor agrees that, notwithstanding this Assignment, the Builder's consent hereto or the exercise by the Assignee of any right assigned hereunder, the Assignor shall, in the event that Assignee does not make payment or cause such payment to be made as required by this Assignment, remain obligated and liable to the Builder under the Purchase Order as if this Assignment had not been executed.

4. The Assignor and the Builder, by its consent hereto, agree that the Assignee shall not have any obligation or liability to the Builder under the Purchase Order by reason of or arising out of this Assignment or be obligated to perform any of the obligations or duties of the Assignor thereunder, except to pay the purchase price for the Equipment as and when delivered and accepted. In the event that the Assignee does not pay the Purchase Price for the Equipment as and when required by the Purchase Order, this Assignment, the Trust Agreement and the Finance Agreement (as defined in the Trust Agreement) all of the Assignee's right, title and interest in the Equipment shall be deemed terminated and vested in the Assignor.

5. The Assignor and the Assignee, by acceptance hereof, agree that neither this Assignment nor the Builder's consent hereto shall in any way increase the Builder's obligations or liabilities under the Purchase Order.

6. The Builder agrees, by its consent hereto; that anything herein or in the Purchase Order to the contrary notwithstanding:

(a) the Builder will not demand, and shall not be entitled to receive, payment from the Assignee or the Trust Estate, as such term is defined in the Trust Agreement, for any Item of Equipment delivered to Assignee pursuant to the Purchase Order and this Assignment except as payment is required to be made by Assignee pursuant to the Trust Agreement upon fulfillment of the conditions therein provided, but shall look solely to the Assignor for such payment; and

(b) upon execution and delivery by the Builder of the Builder's Delivery Certificate for each Item of Equipment concurrently with delivery of the Item of Equipment to the Assignee, good and marketable title to such Item of Equipment, free and clear of all liens, charges or other encumbrances, arising as a result of acts of or claims against the Builder (excepting only the rights of the parties under this Assignment, the Purchase Order, the Finance Agreement and the Lease; and the purchase money security interest retained by the Builder), shall pass to the Assignee; and

(c) upon delivery of payment to the Builder and upon execution and delivery by the Builder of the confirmatory bill of sale for each Item of Equipment to the Assignee, good and marketable title to such Item of Equipment, free and clear of all liens, charges or other encumbrances, arising as a result of acts of or claims against the Builder including any claim by the Builder against the Assignee, said Trust Estate or such Item of Equipment (excepting only the rights of the Loan Participants [as defined in the Finance Agreement] under the Finance Agreement and the rights of the Assignor under the Lease) shall pass to the Assignee.

7. The Assignor agrees that at any time and from time to time, upon the written request of the Assignee, the Assignor shall promptly and duly execute and deliver any and all such further instruments and documents and take such further action as the Assignee may reasonably request in order to obtain the full benefits of this Assignment.

8. The Assignor represents and warrants that the Purchase Order is in full force and effect and is enforceable in accordance with its terms and the Assignor is not in default thereunder. The Assignor further represents and warrants that Assignor has not assigned or pledged, and agrees that it will not assign or pledge, so long as this Assignment remains in effect, the whole or any part of the rights hereby assigned, to anyone other than the Assignee.

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be duly executed under seal as of the date first above written.

ATTEST:

CONSOLIDATED RAIL
CORPORATION
Assignor

T. P. D'Amico
Asst. Secretary

By: _____

RTF
UP

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF PHILADELPHIA

} ss.: _____

On this 1st day of August, 1978, before me personally appeared R. T. Fox, to me personally known, who, being by me duly sworn, says that he is a U.P. of Consolidated Rail Corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation, by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Betty N. Salkin
Notary Public

My Commission Expires:


BETTY N. SALKIN
Notary Public, Phila., Phila. Co.
My Commission Expires July 20, 1981

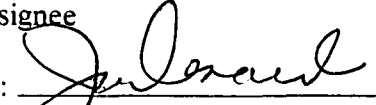
ACCEPTANCE

The foregoing Assignment is hereby accepted and agreed to as of July 18, 1978.

ATTEST:

THE FIDELITY BANK,
as Trustee
Assignee

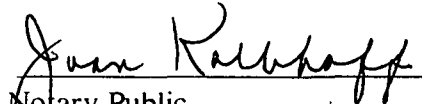

Asst. Sect.

By: 
Vice President

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF PHILADELPHIA

} ss.:

On this 1st day of August, 1978, before me personally appeared J. Mc DONALD, to me personally known, who, being by me duly sworn, says that he is a Vice President of The Fidelity Bank, that the seal affixed to the foregoing instrument is the corporate seal of said banking corporation, that said instrument was signed and sealed on behalf of said banking corporation, by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said banking corporation.


Notary Public

My Commission Expires:

JOAN KOLBHOFF
Notary Public, Philadelphia, Philadelphia Co.
My Commission Expires February 11, 1980

CONSENT AND AGREEMENT

1. The undersigned, PORTEC, INC. (the "Builder"), intending to be legally bound hereby, acknowledges receipt of an executed counterpart or a conformed copy of the Purchase Order Assignment ("Assignment") to which this Consent and Agreement is annexed.

2. The Builder consents to the Assignment subject to the conditions and agreements set forth therein, including, without limitation, the Builder's agreements in paragraph 6 thereof.

3. The Builder agrees that all of its warranties made pursuant to the Purchase Order with respect to the Equipment, both referred to in the Assignment, are made to the Assignee as well as to the Assignor.

IN WITNESS WHEREOF, the Builder has caused this Consent and Agreement to be duly executed under seal as of July 18, 1978.

ATTEST:

J. Effalo
Secretary


PORTEC, INC.

By: Steven K. Jensen
Vice President

Pennsylvania
STATE OF ~~ILLINOIS~~ }
COUNTY OF Phila } ss.:

On this 1st day of August, 1978, before me personally appeared Steven K. Jensen, to me personally known, who, being by me duly sworn, says that he is a Vice President of Portec, Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation, by authority of its Board of Directors, and he acknowledged that the execution of the

foregoing instrument was the free act and deed of said corporation.


Notary Public

My Commission Expires:

BETTY N. SALKIN
Notary Public, Phila., Phila. Co.
My Commission Expires July 20, 1981

CERTIFICATE OF DELIVERY

CONSOLIDATED RAIL CORPORATION ("ConRail") hereby certifies that:

(A) The tri-level enclosed auto racks manufactured by Portec, Inc. listed below (the "Items") have been delivered to ConRail in accordance with the Lease of Railroad Equipment (the "Lease"), dated as of July 18, 1978, by and between ConRail and THE FIDELITY BANK, as trustee (the "Lessor") and inspected and accepted at Novi, Michigan, by ConRail on behalf of the Lessor pursuant to the Lease on the date hereof;

(B) The Items are in good order and condition and conform to all applicable Department of Transportation and Interstate Commerce Commission requirements and specifications, all standards recommended by the Association of American Railroads and all requirements of the Purchase Order referred to in the Lease;

(C) The Items have been plainly, distinctly, permanently and conspicuously marked on each side, in letters not less than one inch in height, with the legend:

"AUTO RACK OWNED BY A BANK OR
TRUST COMPANY UNDER A SECURITY
AGREEMENT FILED UNDER SECTION 20c
OF THE INTERSTATE COMMERCE ACT
AND ARTICLE 9 OF THE PENNSYLVANIA
UNIFORM COMMERCIAL CODE AND
LEASED UNDER A LEASE DEPOSITED UN-
DER SECTION 86 OF THE RAILWAY ACT OF
CANADA."

(D) The Items are subject to the terms and conditions of the Lease and all waivers as to such Items required by Section 8 of the Lease have been obtained and copies delivered as required therein.

The Items to which this certificate pertains are:

Serial No. *Identifying No.* *Car Road No.*

Dated at Novi, Michigan, this _____ day of _____, 1978.

CONSOLIDATED RAIL
CORPORATION
Lessee

By: _____

BUILDER'S DELIVERY CERTIFICATE

PORTEC, INC. ("Builder") hereby certifies that:

(A) The tri-level enclosed auto racks listed below (the "Items") have been delivered at Novi, Michigan, to Consolidated Rail Corporation ("ConRail") as agent for THE FIDELITY BANK, as Trustee, under an Equipment Trust Agreement dated as of July 18, 1978, in accordance with the Purchase Agreement dated as of February 28, 1978, by and between Builder and ConRail (the "Purchase Order") as assigned to Trustee pursuant to the Purchase Order Assignment dated as of July 18, 1978 between ConRail and Trustee;

(B) The Items are in good order and condition and conform to all applicable Department of Transportation and Interstate Commerce Commission requirements and specifications, all standards recommended by the Association of American Railroads and all requirements of the Purchase Order;

(C) Such Items have been plainly, distinctly, permanently and conspicuously marked on each side, in letters not less than one inch in height, with the legend:

"AUTO RACK OWNED BY A BANK OR TRUST COMPANY UNDER A SECURITY AGREEMENT FILED UNDER SECTION 20c OF THE INTERSTATE COMMERCE ACT AND ARTICLE 9 OF THE PENNSYLVANIA UNIFORM COMMERCIAL CODE AND LEASED UNDER A LEASE DEPOSITED UNDER SECTION 86 OF THE RAILWAY ACT OF CANADA."

(D) Identifying numbers have been attached or affixed to the Items. Such legend and identifying numbers were attached before such Items were assembled or affixed to a flat bed car or as soon thereafter as possible; but, in all events, prior to execution of this Certificate.

The Builder represents and warrants to the Loan Participants, the Trustor and the Trustee (as those terms are defined in the Lease of Railroad Equipment dated as of July 18, 1978 (the "Lease")),

between ConRail and THE FIDELITY BANK, as trustee, and ConRail that the Builder is engaged in the business of manufacturing and selling auto racks and other goods of the same kind as the Items that at the time of delivery of the Items, the Items were newly manufactured and were not used, that it had legal title to the Items and good and lawful right to sell the Items in the ordinary course of its business and that the Trustee received good and marketable title to the Items free of all claims, liens, security interests and other encumbrances of any nature, excepting only the rights of the parties under the Purchase Order, Purchase Order Assignment and the Finance Agreement (as defined in the Lease) and the rights of ConRail under the Lease, and the purchase money security interest retained by the Builder.

The Items to which this certificate pertains are:

<i>Serial No.</i>	<i>Identifying No.</i>	<i>Car Raod No.</i>
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Dated at Novi, Michigan, this _____ day of _____, 1978.

PORTEC, INC.
Builder

By: _____